

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

<b>CORNERSTONE CONSTRUCTION</b>	)	
<b>COMPANY OF TENNESSEE, LLC and</b>	)	
<b>ZACHARY GOODGAME,</b>	)	
	)	<b>No. 3:19-cv-00402</b>
<b>Plaintiffs,</b>	)	
	)	<b>District Judge Mattice</b>
<b>v.</b>	)	<b>Magistrate Judge Guyton</b>
	)	
<b>BUILDERS MUTUAL INSURANCE</b>	)	<b>JURY DEMAND</b>
<b>COMPANY,</b>	)	
	)	
<b>Defendant.</b>	)	

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**MOTION FOR REMAND OR, ALTERNATIVELY, TO TRANSFER VENUE**

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Pursuant to 28 U.S.C. § 1447(c), Plaintiffs Cornerstone Construction Company of Tennessee, LLC and Zachary Goodgame respectfully move this court for the entry of an order remanding this action to the Chancery Court for Williamson County, Tennessee. Alternatively, Plaintiffs move the court to transfer this action to the United States District Court for the Middle District of Tennessee.

This case should be remanded for two separate reasons. First, the court lacks subject matter jurisdiction because the amount in controversy does not exceed \$75,000.00 as required by 28 U.S.C. § 1332(b). As set forth in Plaintiffs' Complaint, Plaintiffs only seek a declaratory judgment regarding Defendant Builders Mutual Insurance Company's duty to defend – i.e., pay legal fees in defense of claims. Plaintiffs do not seek a judgment at this time as to Defendant's indemnity obligations. Second, abstention is warranted in accordance with the factors articulated in Grand T. W. R. Co. v. Consolidated Rail Corp., 746 F.2d 323 (6<sup>th</sup> Cir. 1984).

Alternatively, this action should be transferred to the United States District Court for the Middle District of Tennessee. Defendant failed to file its Notice of Removal in “the district court of the United States for the district and division within which such action is pending” as required by 28 U.S.C. § 1446(a). As such, transfer of venue is warranted. See Smith v. Cariten Ins. Co., 2008 U.S. Dist. LEXIS 47911 (E.D. Tenn. Jun. 20, 2008).

Finally, pursuant to 28 U.S.C. § 1447(c), Plaintiffs move the court for an award of just costs and any actual expenses, including attorney fees, incurred as a result of the wrongful removal. Plaintiffs request leave to prove said amounts through a post-ruling declaration from undersigned counsel.

Respectfully submitted,

KAY GRIFFIN, PLLC

s/ Michael A. Johnson  
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MICHAEL A. JOHNSON (#30210)  
222 Second Avenue North  
Suite 340M  
Nashville, Tennessee 37201  
mjohnson@kaygriffin.com  
615-742-4800

*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion has been served via the CM/ECF system upon:

David A. Draper  
Lewis, Thomason, King, Krieg &  
Waldrop, P.C.  
620 Market Street  
P.O. Box 2425  
Knoxville, TN 37901  
ddraper@lewisthomason.com

Daniel W. Olivas  
Lewis, Thomason, King, Krieg &  
Waldrop, P.C.  
620 Market Street  
P.O. Box 2425  
Knoxville, TN 37901  
dolivas@lewisthomason.com

on this the 11th day of November, 2019.

s/ Michael A. Johnson